

IN THE  
**ARIZONA COURT OF APPEALS**  
DIVISION TWO

---

THE STATE OF ARIZONA,  
*Respondent,*

*v.*

NATHAN CARLOS RAWLS,  
*Petitioner.*

No. 2 CA-CR 2014-0265-PR  
Filed August 29, 2014

---

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND  
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.

NOT FOR PUBLICATION

*See* Ariz. R. Sup. Ct. 111(c); Ariz. R. Crim. P. 31.24.

---

Petition for Review from the Superior Court in Maricopa County

No. CR1999010164

The Honorable Hugh Hegyi, Judge

**REVIEW GRANTED; RELIEF DENIED**

---

COUNSEL

Nathan Rawls, Florence  
*In Propria Persona*

STATE v. RAWLS  
Decision of the Court

---

**MEMORANDUM DECISION**

Judge Espinosa authored the decision of the Court, in which Chief Judge Eckerstrom and Presiding Judge Miller concurred.

---

ESPINOSA, Judge:

¶1 Nathan Rawls petitions this court for review of the trial court's order summarily dismissing his notice of post-conviction relief filed pursuant to Rule 32, Ariz. R. Crim. P. We will not disturb that ruling unless the court clearly has abused its discretion. *See State v. Swoopes*, 216 Ariz. 390, ¶ 4, 166 P.3d 945, 948 (App. 2007). Rawls has not met his burden of demonstrating such abuse here.

¶2 Rawls pled guilty in 2000 to sexual conduct with a minor and attempted sexual conduct with a minor. The trial court imposed a twenty-year prison term for the first count and suspended the imposition of sentence for the second, placing Rawls on lifetime probation. Before beginning the current proceeding, Rawls sought post-conviction relief on at least nine occasions and has been denied relief each time, most recently in December 2011. In May 2013, he filed yet another notice of post-conviction relief, claiming he is "actually innocent" of the charged crimes because the statutes defining those crimes are unconstitutional due to a lack of "enacting clauses and titles." The trial court dismissed the notice, concluding the claim could not be raised in an untimely post-conviction proceeding.

¶3 On review, Rawls seems to suggest the trial court erred in dismissing his notice because of his claim of actual innocence pursuant to Rule 32.1(h). Such a claim may be raised in a successive, untimely notice of post-conviction relief. *See* Ariz. R. Crim. P. 32.4(a). But Rawls's argument cannot reasonably be so construed. To obtain relief under Rule 32.1(h), the defendant must "demonstrate[] by clear and convincing evidence that the facts underlying the claim would be sufficient to establish that no

STATE v. RAWLS  
Decision of the Court

reasonable fact-finder would have found defendant guilty of the underlying offense beyond a reasonable doubt.” That subsection does not encompass the constitutional claims that Rawls raises – such claims are instead governed by Rule 32.1(a), and may not be raised in an untimely proceeding. Ariz. R. Crim. P. 32.4(a). Thus, summary dismissal of his notice was required. *Id.*

¶4 Moreover, even if Rawls’s argument could reasonably be construed as a claim under Rule 32.1(h), his notice does not “set forth the substance of the specific exception and the reasons for not raising the claim in the previous petition or in a timely manner” as required by Rule 32.2(b). A notice that does not comply with Rule 32.2(b) must be summarily dismissed. Ariz. R. Crim. P. 32.2(b).

¶5 Although review is granted, relief is denied.